

*** NOT FOR PUBLICATION ***

NO. 26376

IN THE SUPREME COURT OF THE STATE OF HAWAII

SURETY KOHALA CORPORATION, a Hawaii corporation, Plaintiff-Appellee

vs.

HEIRS OF ASSIGNS OF KAHALEOLE (W); HEIRS OR ASSIGNS OF NAMAKA (K); HEIRS OR ASSIGNS OF IOBA KEALINA (K); HEIRS OR ASSIGNS OF KEALINA (K); HEIRS OF ASSIGNS OF KOLEKA (W); ALSO KNOWN AS KOLEKA KEALINA, HEIRS OR ASSIGNS OF SAMUEL NAKAIKUAHINE KEALINA; HEIRS OR ASSIGNS OF PAUL KANAINA KAELEMAKULE; HEIRS OR ASSIGNS OF MALAEA APANA (W); JOHN G. LINCOLN TRUSTEE, WATER COMMISSION OF THE COUNTY OF HAWAII; HAWAIIAN ELECTRIC LIGHT COMPANY; INC.; VERIZON HAWAII, INC.; STATE OF HAWAII; COUNTY OF HAWAII; the following owners or occupants of adjoining lands; BRUNO CONDO c/o BEN M. BRUNO & ELMA V. BRUNO; TIME WARNER ENTERTAINMENT COMPANY, L.P.; HELECONIA CONDOMINIUM PROJECT; AGNES POBRE; Heirs of persons named above who are deceased, or persons holding under said Heirs and spouses, assigns, successors, personal representatives, executors, administrators, and trustees of persons named above who are deceased; DOES 1 through 100; and all other persons unknown claiming any right, title, estate, lien or interest in the real property described and TO WHOM IT MAY CONCERN,
Defendants-Appellees

and

JOSEPHINE H. RABAGO, Defendant-Appellant

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 01-1-0329)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of (1) Defendant-Appellant Josephine Helelani Puahi Rabago's (Appellant Rabago) April 8, 2004 jurisdiction statement, (2) Plaintiff-Appellee Surety Kohala Corporation's (Appellee Surety Kohala) April 19, 2004 motion to dismiss the appeal, (3) Appellant Rabago's April 22, 2004 memorandum in opposition to Appellee Surety Kohala's motion to

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dismiss the appeal, and (4) the record, it appears that we do not have jurisdiction over Appellant Rabago's appeal. An aggrieved party may appeal from circuit court orders resolving claims against parties only after the circuit court has reduced the orders to a separate judgment in favor of and against the appropriate parties pursuant to Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP). Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). Therefore, "an appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCP [Rule] 54(b)." Id.

The Circuit Court of the Third Circuit, State of Hawai'i, the Honorable Terrence T. Yoshioka presiding, has not reduced the dispositive orders in this case to a separate judgment that, on its face, either resolves all claims against all parties pursuant to HRCP Rule 58 or contains the finding necessary for certification under HRCP Rule 54(b). Absent an appealable final judgment under HRS § 641-1(a) (1993), Appellant Rabago's appeal is premature and we lack appellate jurisdiction. Accordingly,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 6, 2004.